IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FARAD CONTINUATION SHEET
CIVIL APPLICATION NO.3102 OF 2005
IN
FIRST APPEAL NO.1290 OF 2005

M/s.Gaurishankar Process & Ors. ...Applicants

vs.

Mahavir Sales Corporation ...Respondent

CORAM: A.S.OKA, J.
DATED: JULY 28, 2006.

P.C.:

1. Rule. Respondents waive service. Taken up for hearing forthwith. Shri Joshi appearing for the Applicants submits that though there is a money decree, stay may be continued in terms of ad-interim order passed on 13th July 2005.

2. The normal rule is that money decree cannot be stayed unless the entire decretal amount is deposited by the Applicant. No case is made out for making a departure from the normal rule. The suit arises out of a commercial transaction between the parties. Shri Joshi states that a sum of Rs.1,25,000/-is already deposited. Time deserves to be granted to the Applicant deposit the balance amount.

3. Hence, Civil Application is disposed of by passing the following order :

i) There will be interim relief in terms of prayer clause (a) subject to the condition that the Applicants will deposit the entire amount due and payable as per the impugned Judgment and Decree with the Trial Court within twelve weeks from today. If the amount is not deposited within stipulated period, stay granted will stand vacated automatically. If the Applicants have deposited any amount on the basis of the decree, the Applicant will be entitled to necessary adjustment.

ii) The original Plaintiff will be at liberty to take out appropriate Application for withdrawal of the amount as and when the same is deposited.

iii) It is made clear that the Applicants will be free to contest the Application on all available grounds.

Judge.